

Environmental Protection Agency

§ 94.903

as a marine engine may be imported in a nonconforming configuration, subject to the following provisions:

(i) The modified engine must be covered by a valid marine engine certificate issued under this part prior to importation and held by a post-manufacture marinizer. (Note: Prior to certification, manufacturers and post-manufacture marinizers may import uncertified engines for testing, as specified in paragraph (b)(2) of this section.)

(ii) The engine may not be placed into non-marine service prior to being installed in a vessel.

(iii) The importer must obtain written approval from the Administrator prior to admission.

(iv) The engine and engine container must be labeled as specified by the Administrator.

(v) A manufacturer importing an engine under this exemption must modify the engine to comply with the requirements of this part.

§ 94.805 Prohibited acts; penalties.

(a) The importation of an engine (including an engine incorporated in an imported marine vessel) which is not covered by a certificate of conformity other than in accordance with this subpart and the entry regulations of the U.S. Customs Service is prohibited. Failure to comply with this section is a violation of section 213(d) and section 203 of the Act.

(b) Unless otherwise permitted by this subpart, during a period of conditional admission, the importer of an engine may not:

(1) Operate the engine in the United States; or

(2) Sell or lease or offer the engine for sale or lease.

(c) An engine conditionally admitted pursuant to § 94.804 and not otherwise permanently exempted or excluded by the end of the period of conditional admission, or within such additional time as the Administrator and the U.S. Customs Service may allow, is deemed to be unlawfully imported into the United States in violation of section 213(d) and section 203 of the Act, unless the engine has been delivered to the U.S. Customs Service for export or other disposition under applicable Customs laws

and regulations by the end of the period of conditional admission. An engine not so delivered is subject to seizure by the U.S. Customs Service.

(d) An importer who violates section 213(d) and section 203 of the Act is subject to a civil penalty under section 205 of the Act and § 94.1106. In addition to the penalty provided in the Act and § 94.1106, where applicable, a person or entity who imports an engine under the exemption provisions of § 94.804 and, who fails to deliver the engine to the U.S. Customs Service by the end of the period of conditional admission is liable for liquidated damages in the amount of the bond required by applicable Customs laws and regulations.

Subpart J—Exclusion and Exemption Provisions

§ 94.901 Purpose and applicability.

The provisions of this subpart identify excluded engines (i.e., engines not covered by the Act) and allow for the exemption of engines from certain provisions of this part. The applicability of the exclusions is described in § 94.903, and the applicability of the exemption allowances is described in §§ 94.904 through 94.909.

§ 94.902 Definitions.

The definitions of Subpart A of this part apply to this subpart.

§ 94.903 Exclusions.

(a) Upon written request with supporting documentation, EPA will make written determinations as to whether certain engines are excluded from applicability of this part. Any engines that are determined to be excluded are not subject to the regulations under this part. Requests to determine whether certain engines are excluded should be sent to the Designated Officer.

(b) EPA will maintain a list of models of engines that have been determined to be excluded from coverage under this part. This list will be available to the public and may be obtained by writing to the address in paragraph (a) of this section.

(c) In addition to the engines excluded in paragraph (a) of this section, certain engines are not subject to the

requirements and prohibitions of this part because they are excluded from the definitions of “marine engine” in § 94.2.

§ 94.904 Exemptions.

(a) Except as specified otherwise in this subpart, the provisions of §§ 94.904 through 94.911 exempt certain new engines from the standards, other requirements, and prohibitions of this part, except for the requirements of this subpart and the requirements of § 94.1104. Additional requirements may apply for imported engines; these are described in subpart I of this part.

(b)(1) Any person may request a testing exemption subject to the provisions of § 94.905.

(2) Any engine manufacturer may request a national security exemption subject to the provisions of § 94.908.

(3) Engines manufactured for export purposes are exempt without application, subject to the provisions of § 94.909, except as otherwise specified by § 94.909.

(4) Manufacturer-owned engines are exempt without application, subject to the provisions of § 94.906(a).

(5) Display engines are exempt without application, subject to the provisions of § 94.906(b). This does not apply to imported engines (see § 94.804).

(6) Engines used solely for competition are exempt, subject to the provisions of § 94.906(c).

[64 FR 73331, Dec. 29, 1999, as amended at 68 FR 9787, Feb. 28, 2003]

§ 94.905 Testing exemption.

(a)(1) The Administrator may exempt from the standards and/or other requirements and prohibitions of this part new engines that are being used solely for the purpose of conducting a test program. Any person requesting an exemption for the purpose of conducting a test program must demonstrate the following:

(i) That the proposed test program has a purpose which constitutes an appropriate basis for an exemption in accordance this section;

(ii) That the proposed test program necessitates the granting of an exemption;

(iii) That the proposed test program exhibits reasonableness in scope; and

(iv) That the proposed test program exhibits a degree of oversight and control consonant with the purpose of the test program and EPA’s monitoring requirements.

(2) Paragraphs (b), (c), (d), and (e) of this section describe what constitutes a sufficient demonstration for each of the four elements identified in paragraphs (a)(1)(i) through (iv) of this section.

(b) With respect to the purpose of the proposed test program, an appropriate purpose would be research, investigations, studies, demonstrations, technology development, or training, but not national security. A concise statement of purpose is a required item of information.

(c) With respect to the necessity that an exemption be granted, necessity arises from an inability to achieve the stated purpose in a practicable manner without performing or causing to be performed one or more of the prohibited acts under § 94.1103. In appropriate circumstances, time constraints may be a sufficient basis for necessity, but the cost of certification alone, in the absence of extraordinary circumstances, is not a basis for necessity.

(d) With respect to reasonableness, a test program must exhibit a duration of reasonable length and affect a reasonable number of engines. In this regard, required items of information include:

(1) An estimate of the program’s duration; and

(2) The maximum number of engines involved.

(e) With respect to control, the test program must incorporate procedures consistent with the purpose of the test and be capable of affording EPA monitoring capability. As a minimum, required items of information include:

(1) The technical nature of the testing;

(2) The location(s) of the testing;

(3) The time or work duration of the testing;

(4) The ownership arrangement with regard to the engines involved in the testing;

(5) The intended final disposition of the engines;